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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,003

02/06/2004

Joseph D. Napoli

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7590

10/17/2007

CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK, NY 10016

EXAMINER

SMYTH, ANDREW P

ART UNIT

PAPER NUMBER

2881

MAIL DATE

DELIVERY MODE

10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/774,003

Applicant(s)

NAPOLI, JOSEPH D.

Examiner

Andrew Smyth

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-21 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/06/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

REMARKS

1. Claims 9-17 previously allowed.
2. Claims 1, 3, 6, and 18 were amended.
3. New claim 21 has been added.

Response to Amendment

Allowable Subject Matter

1. Claims 18-21 are allowed.
2. The following is a statement of reasons for the indication of allowable subject matter:

"A method for testing for substances of interest, said method comprising: receiving a substantially flat card from a suspect; passing the card against at least one resiliently deflectable metallic wiper mounted in a testing apparatus so that said wiper removes substances from said card; separating the card from the wiper; enclosing the wiper in an enclosure in the testing apparatus; heating the wiper in the enclosure sufficiently for desorbing substances removed from said card and onto said wiper; placing said wiper in communication with a detector; and testing the desorbed substances for the presence of a substance of interest."

The method for testing for substances of interest utilizing the apparatus/ configuration was not found in a prior art search. The search failed to show or suggest the prior use of: "A method for testing for substances of interest, said method comprising: receiving a substantially flat card from a suspect; passing the card against at least one resiliently deflectable metallic wiper mounted in a testing apparatus so that said wiper removes substances from said card; separating the card from the wiper; enclosing the wiper in an enclosure in the testing apparatus; heating the wiper in the enclosure sufficiently for desorbing substances removed from said card and onto said wiper; placing said wiper in communication with a detector; and testing the desorbed substances for the presence of a substance of interest."

3. Dependent claims 19-21 are allowable due to their dependency upon allowable independent claim 18.

Claim Objections

1. Claims 4-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Casterlin (US 6,915,919).

Regarding applicant's claim 1, Casterlin discloses: an apparatus for collecting samples of interest from a card, the apparatus comprising a housing formed with a slot dimensioned for slidably receiving the card, at least one wiper disposed in the housing substantially adjacent the slot for biased engagement against the card slid through the slot and an enclosure at least a portion of which is selectively movable for enclosing the wiper after the card has been slid through the slot and for subsequently opening to permit another card to be slid through the slot (abstract).

Regarding applicant's claim 2, Casterlin discloses: the apparatus, wherein the slot is configured to define a direction of movement for sliding the card through the slot, the wiper having a wiping blade with a longitudinal direction aligned substantially orthogonal to the direction of movement (abstract; figure 1).

Regarding applicant's claim 3, Casterlin discloses: the apparatus, wherein the at least one wiper comprises two wipers substantially juxtaposed to one another and projecting into the slot from opposite sides of the slot so that a card slidably received in the slot passes between the juxtaposed wipers, each said wiper having a blade, the blades being disposed respectively for contact with opposite sides of the card, the

blades being resiliently deflectable away from one another in response to forces exerted by the card (abstract; figure 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Smyth whose telephone number is 571-270-1746. The examiner can normally be reached on 7:30AM - 5:00PM; Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A.S.

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ROBERT KIM
SUPERVISOR PATENT EXAMINER